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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,624	06/26/2003	Shigeki Matsubara	KAS-185	4456
24956	7590	09/09/2005	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314			LEVKOVICH, NATALIA A	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/603,624	MATSUBARA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Natalia Levkovich	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regards as the invention. Claims 1-10 are drawn to an automatic analysis system, but only the display device is recited in the claims as the system constituent. Applicants must set forth the structure of the analysis apparatus, i.e. flow paths, sample/reagent vessels, sensors, controller, software etc., and how they interrelate (structurally and functionally) with the display device.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by Mimura et al. (EP 0952452).

Mimura et al. disclose an automatic analyzer for determination of sample concentrations, comprising: display for monitoring the analysis process through displaying a set of screens corresponding to various operation steps, such as parameter setting ['setup' - Examiner], maintenance, calibration, quality control, or reagent management (See [0007], [0024]-[0029]; Figure 2). When an operation function of an automatic analyzer is allowed to be used, the corresponding selection button on the screen is "indicated by the color representing access state", while the buttons corresponding to 'non-allowed' functions are "indicated by the color representing not accessible state" (Abstract).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 4-5 and 7-8 are 103(a) as being unpatentable over Mimura et al. (EP 0952452).

Referring to claims 7-8: although Mimura does not specifically teach that when there is an 'analysis object which requires 'execution of calibration' or 'execution of quality control operation', the corresponding boxes (representing the aforementioned steps) change the color, however, Mimura does teach calibration and quality control steps, as well as selection buttons changing their color to indicate their accessibility to an operator (see paragraph 4 of the instant Office Action). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the display in such a manner that the corresponding boxes would change the color, or caption, or flicker, in order to attract attention of the operator when operator's input is needed.

With respect to claim 4, Mimura does not disclose an operation step to be a step of clearing garbage data and a corresponding box changing its color when the above step is required. However, garbage collecting/clearing off is a well known, routine

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procedure used in numerous software packages. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the display in such a manner that the corresponding boxes would change the color, or caption, or flicker, in order to attract attention of the operator when operator's input is needed.

As to claim 5, Mimura does teach reagent management as an operation step, however, Mimura does not specify that a day before a reagent amount is expected to become insufficient, the corresponding box would change its color. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the display in such a manner that the corresponding boxes would change the color, or caption, or flicker, in order to attract attention of the operator when operator's input is needed.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura et al. (EP 0952452) in view of Mimura et al. (US 6080364).

EP 0952452 does not disclose the maintenance operation to be a step for managing a maintenance execution history and a corresponding box changing its color if a maintenance item remains unexecuted over a predetermined time. However, flow chart elements changing the color in response to certain events are disclosed in EP 0952452 (see paragraphs 4 and 7 of the current Office Action). US 6080364 discloses tracking an execution history of a calibration step (Col 16, line 60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the display in such a manner that the corresponding box would change the color (or the

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caption, or would flicker) in case the operation was not performed within a certain time period, in order to attract attention of the operator when operator's input is needed.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura et al.(EP 0952452) in view of Koakutsu et al. (EP 0359049).

Mimura does disclose reagent management as an operation step, however, Mimura does not specifically teach rinsing and priming flow paths. Nevertheless, the operations of rinsing / priming the containers and/or fluid communication means are widely used in the art (see, for example, the Koakutsu reference, Col. 1, lines 25-40; Col.5, lines 10-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed rinsing / priming of flow paths in the system of Mimura, in order to provide for accurate measurements.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura et al.(EP 0952452) in view of Kodosky et al. (US 4901221).

Mimura does not disclose a configuration display section showing configuration of said automated analysis system. Kodosky disclose a computer system having a display console for displaying images representing the configuration of the system and allowing the system control (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed symbolic representation of the constituents of the automated analysis system of Mimura, with the symbol representing the element of the system involved in an on-going operational step being displayed differently from the remaining steps, in order to attract attention of the operator when operator's input is needed.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Mezei et al. (US 4873633)-disclose a display of automatic analyzer configured to monitor liquid handling operations (such as washing and priming the flow paths); Mimura et al. (EP 0871034) disclose erasing failed data; Bender et al. (US 5576946) teach a control system where on-screen symbols are used to represent a process steps; Takahashi et al. (EP 0732591) disclose an analyzer with display configured to handle abnormalities.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalia Levkovich whose telephone number is 571-272-2462. The examiner can normally be reached on Mon-Fri, 8 a.m.-4p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you




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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700